

Honorable Timothy W. Dore  
Hearing date: May 10, 2019; 9:30 a.m.  
Hearing Place: Room 8106, 700 Stewart Street, Seattle, WA 98101  
Responses due by: May 3, 2019; by 4:30 p.m.

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re: ) Chapter 7  
SUMMIT TEXAS CLEAN ENERGY LLC, ) Bankruptcy No. 17-14525  
Debtor(s). ) TRUSTEE'S MOTION FOR AN ORDER  
OF SALE OF REAL PROPERTY OF THE  
ESTATE FREE AND CLEAR OF LIENS  
AND ENCUMBRANCES

COMES NOW the duly appointed trustee, Nancy James, through counsel, The Livesey Law Firm, and Rory C. Livesey, and moves this court for an order authorizing the sale of the bankruptcy estate's interest in certain real property located in Ector County, Texas.

The debtor's schedules list six parcels of real property located in Ector County, Texas. The largest parcel, called the Reverter Tract, consists of approximately 600 acres. *See* Declaration of Rory C. Livesey. That property was acquired through an agreement with the Odessa Development Corporation ("ODC"). Under the terms of the agreement with ODC, the property would revert to Odessa Industrial Development Corporation ("OIDC") if the debtor did not achieve financial closing of its coal gasification operation on or before December 31, 2017. The debtor did not meet its objectives and the trustee believes that the property did, indeed, revert to OIDC. Under the agreement the debtor could have paid ODC \$480,000 and retained the property, but the bankruptcy had been filed and the debtor did not have the funds. Additionally, junior to the OIDC claim is the claim of Siemens Financial Services. However, the claim was eliminated when the property reverted to OIDC.

**TRUSTEE'S MOTION FOR AN ORDER OF SALE  
OF REAL PROPERTY OF THE ESTATE FREE  
AND CLEAR OF LIENS AND ENCUMBRANCES**  
190415aMot Page 1

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1           The debtor also owns five additional lots contiguous to the Reverter Tract. The legal  
2 descriptions are attached to the Declaration of Livesey on file herein. They comprise approximately  
3 60 acres. According to the tax assessed values provided by Ector County, the lots have a combined  
4 assessed value of approximately \$17,000.

5           OIDC has agreed to purchase the 60 contiguous acres and any remaining interest the  
6 bankruptcy estate may have in the Reverter Tract for \$25,000. OIDC will also pay all of the costs  
7 to close the transaction, other than the bankruptcy estate's administrative expenses related to the  
8 sale. The sale should net the estate \$25,000.

9           The sale will be free and clear of liens and encumbrances. The property will be "as-is,  
10 where-is" with no warranties or representations by the trustee. However, notwithstanding anything  
11 to the contrary in any purchase or sale agreement or the Order Approving Sale under  
12 11 U.S.C. § 363, nothing in this Motion or the Order or related documents will discharge, release,  
13 preclude or enjoin: (i) any liability to any governmental unit as defined in 11 U.S.C. § 101(27)  
14 ("Governmental Unit") that is not a "claim" as defined in 11 U.S.C. § 101(5) ("Claim"); (ii) any  
15 Claim of a Governmental Unit arising on or after the Sale Date; (iii) any liability to a Governmental  
16 Unit under police and regulatory statutes or regulations that any entity would be subject to as the  
17 owner or operator of property after the Sale Date; (iv) any liability to a Governmental Unit on the  
18 part of any Person other than the Debtor. Nor shall anything in the Order enjoin or otherwise bar  
19 a Governmental Unit from asserting or enforcing, outside this Court, any liability described in the  
20 preceding sentence. Nothing in the Order or related documents will authorize the transfer or  
21 assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e)  
22 approval, or the discontinuation of any obligation thereunder, without compliance with all applicable  
23 legal requirements and approvals under police or regulatory law (including but not limited to all  
24 applicable requirements of the Texas Commission on Environmental Quality). Nothing in the Order  
25 will divest any tribunal of any jurisdiction it may have under police or regulatory law to interpret  
the Order or to adjudicate any defense asserted under the Order.

**TRUSTEE'S MOTION FOR AN ORDER OF SALE  
OF REAL PROPERTY OF THE ESTATE FREE  
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190415aMot Page 2

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The trustee has determined that this sale is in the best interest of the estate. *See* Declaration of Nancy James. The property has very limited value to the creditors. The Reverter Tract is arguably no longer property of the estate. Without the Reverter Tract the remaining lots are essentially valueless. The trustee previously filed a motion to abandon the real property, but withdrew the motion when OI DC expressed its interest in purchasing the property.

WHEREFORE, the trustee prays for an order accordingly.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of April, 2019.

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/S/ *Rory C. Livesey*

Rory C. Livesey, WSBA #17601  
Attorney for Trustee

**TRUSTEE'S MOTION FOR AN ORDER OF SALE  
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190415aMot Page 3

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